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UNCLAS SECTION 01 OF 02 GUATEMALA 001213

SIPDIS

SENSITIVE

DEPARTMENT FOR DRL: DANIKA WALTERS, WHA/CEN AND WHA/PPC

E.O. 12958: N/A

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SUBJECT: EXECUTIVE RALLIES BEHIND CICIACS

1. This is an action request. See para 8.
2. (SBU) Summary: President Berger has taken the first step to salvage the GOG-UN agreement to create a UN Commission to Investigate Clandestine Groups (CICIACS) by convincing the Congressional leadership to withdraw the agreement to the Executive before a planned plenary vote. By pulling the agreement before a vote, the Executive is now free to resubmit it to Congress after it has been renegotiated with the UN. The GOG's strategy for getting the agreement implemented is not yet entirely clear, making it difficult to predict its ultimate outcome or timing. What is clear is that the Berger Administration is intent on giving CICIACS another try in some form. A recent visit by UN A/SecGen Prendergast and positive statements by President Berger, Vice President Stein, Attorney General Florido and others have helped tip the balance in favor of a modified CICIACS agreement. End Summary.
3. (U) On May 11, President Berger formally requested that Congress return CICIACS to the Executive without a plenary vote, which would have certainly been negative following negative votes in the Human Rights and Government Commissions. The Ambassador had convinced CICIACS' main opponent in Congress, Antonio Arenales Forno of the FRG, to permit the move. The Congressional plenary, in a quick and informal roll-call on May 12, ratified the Congressional leadership's consent to the President's request without opposition. As a result, the Executive will be able to renegotiate the agreement with the United Nations and resubmit it to Congress without delay.
4. (SBU) Visiting United Nations Assistant Secretary General Kieran Prendergast met with the Ambassador and European diplomats on May 10 to discuss the state of play on CICIACS. According to Prendergast, Vice President Stein has formed a task force which will make recommendations to him on how to proceed toward CICIACS implementation within two weeks. The task force's mandate includes developing a strategy and proposal for changes to the agreement, to be negotiated with the UN. The composition of a later commission to oversee the implementation of these proposals for the GOG is still undecided. Presidential Human Rights Commissioner Frank LaRue told HROff on May 11 that the GOG would likely renegotiate some points of the agreement with the UN, send it to the Constitutional Court for an opinion on constitutionality (to head off Congressional criticism), and re-submission for consideration by Congress.
6. (SBU) President Berger commented publicly on May 11 that "CICIACS must work in tandem with the Public Ministry, but not be a part of it. If that is unconstitutional, they should work together." Taking his cue from the President, Attorney General Juan Luis Florido publicly supported a renegotiated CICIACS for the first time on May 11, saying "the Public Ministry would accept a proposal which strengthens it," but said any new agreement must "subordinate CICIACS to the Public Ministry." Florido has quietly opposed CICIACS up to now, but changed his tune after meeting with Prendergast and UN Senior Political Officer Martha Doggett. In a meeting with the DCM on May 12, Florido implied that relatively minor textual changes would be needed to win his support. He indicated that he believed those changes would also be acceptable to the UN. In addition, Sergio Morales, Human Rights Ombudsman, spoke to the UNE bench May 12, urging the deputies to vote in favor of CICIACS when it returns to Congress to further the fight against organized crime.
7. (SBU) Comment: CICIACS ultimate fate depends on the Berger/Stein Administration's political will and skill. After Congress' initial setback, President Berger and Vice President Stein have taken the first step towards resuscitating CICIACS. However, CICIACS remains in limbo while the GOG task force is formed and comes up with its strategy. We expect that strategy to include renegotiation with the UN of aspects of the agreement relating to the relationship with Florido's Public Ministry. To pass Congress, the new text must address constitutional concerns of the FRG's Arenales and/or Security Commissioner Otto Perez Molina, leader of the Patriotic Party, a member of the ruling GANA coalition. Final passage will be fiercely opposed by clandestine interests themselves, which are believed by LaRue

to be using money to lobby against it in Congress. It is still too early to know what timetable will emerge from the Executive for CICIACS' implementation.

18. (SBU) Action Request. Embassy requests that DRL and WHA hold obligated funds for CICIACS until the timetable for implementation is more clear. In the meantime, we will alert the GOG that USG funding is time-bound, and report subsequent developments.

HAMILTON